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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91217625
Party	Plaintiff Big Front Door, LLC dba big front door
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Attachments	Amended Notice of Opposition.pdf(86747 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Big Front Door, LLC)	
)	
Opposer,)	
)	
v.)	Opposition No. 91217625
)	Ser. No. 86224809
Elliot H. Cohen,)	
)	
Applicant.)	
)	

AMENDED NOTICE OF OPPOSITION

Big Front Door, LLC dba big front door (“Opposer”), having an address of 4135 Park Boulevard, San Diego, California 92103, is or will be damaged by the registration of the mark BFD which is set forth in application Ser. No. 86224809 and filed by Elliot H. Cohen (“Applicant”), and hereby opposes the same.

As grounds for the opposition, Opposer, by its attorneys, avers as follows:

1. On March 18, 2014, Opposer filed trademark application Ser. No. 86224960 with the United States Patent and Trademark Office (“US PTO”) seeking to register the mark BFD BIG FRONT DOOR for services in International Class 43, namely “catering services; restaurant services; take-out restaurant services.”
2. On March 19, 2014, Opposer filed trademark application Ser. No. 86225653 with the US PTO seeking to register the mark BFD for services in International Class 43, namely “catering services; restaurant services; take-out restaurant services.”
3. Print-outs from the US PTO’s Trademark Status & Document Retrieval (TSDR)

database satisfying the requirements for submitting a current status and title copy of Opposer's pleaded trademark applications, Ser. Nos. 86224960 and 86225653, are submitted herewith.

4. On March 18, 2014, Applicant filed application Ser. No. 86224809 with the United States Patent and Trademark Office seeking to register BFD for services in International Class 43, namely "restaurants."

5. Application Ser. No. 86224809 was filed under Section 1(b) of the Trademark Act based on Applicant's intention to use BFD for services relating to "restaurants."

6. On information and belief, Applicant did not use BFD in commerce for services relating to restaurants prior to the filing date of application Ser. No. 86224809.

7. On information and belief, Applicant has not used BFD in commerce for services relating to restaurants at any point after the filing date of application Ser. No. 86224809.

8. On June 22, 2014, the US PTO examiner for Opposer's trademark application Ser. Nos. 86224960 and 86225663 issued suspension letters citing the March 18, 2014 priority filing date for application Ser. No. 86224809. As a consequence of the foregoing, Opposer is and continues to be damaged by application Ser. No. 86224809 and, by making its trademark applications of record, Opposer has standing to oppose the same.

9. On July 29, 2014, application Ser. No. 86224809 was published for opposition.

10. Opposer's trademark application Ser. Nos. 86224960 and 86225653 were filed under Section 1(a) of the Trademark Act based upon Opposer's actual use of the BFD BIG FRONT DOOR and BFD marks in conjunction with "catering services; restaurant services; take-out restaurant services" in commerce at least as early as December 15, 2011.

11. The marks set forth in Ser. No. 86224960 and 86225653 were first used in

commerce prior to any actual use or constructive use of the mark set forth in application Ser. No. 86224809.

12. As a result of Opposer's use of the BFD BIG FRONT DOOR and BFD marks in commerce, Opposer has established valuable consumer recognition and goodwill in the BFD BIG FRONT DOOR and BFD marks in conjunction with restaurant services.

13. Opposer's BFD BIG FRONT DOOR and BFD marks became well known for the services set forth in Ser. Nos. 86224960 and 86225653 prior to March 18, 2014, the date Applicant filed application Ser. No. 86224809 for BFD.

14. As a result of the foregoing, the BFD BIG FRONT DOOR and BFD marks point uniquely and unmistakably to Opposer as an entity and, at all relevant times before March 18, 2014, have become Opposer's identity and persona for the services set forth in Ser. Nos. 86224960 and 86225653.

15. Applicant's BFD mark is the substantial equivalent to Opposer's identity and persona so as to cause consumers to believe that the services set forth in application Ser. No. 86224809 are connected with Opposer, when in fact they are not.

16. Opposer's name or identity is of sufficient fame or reputation that when Applicant's BFD mark is used in conjunction with restaurant services, a connection with Opposer would be presumed.

17. The mark set for in application Ser. No. 86224809 is identical in appearance to Ser. No. 86225653 and is similar in appearance to Opposer's mark in Ser. No. 86224960.

18. The marks set forth in Ser. Nos. 86224960 and 86225653 and the mark forth in application Ser. No. 86224809 are confusingly similar.

19. The services set forth in Ser. Nos. 86224960 and 86225653 are closely related, if not identical, to those set forth in application Ser. No. 86224809.

20. The conditions surrounding the marketing of the services set forth in Ser. Nos. 86224960 and 86225653 and the services set forth in application Ser. No. 86224809 are such that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the services originate from a common source.

21. The services set forth in application Ser. No. 86224809 are likely to be marketed in the same channels of trade as the services provided by Opposer under Ser. Nos. 86224960 and 86225653.

22. Opposer will be damaged by the issuance of the mark set forth in Ser. No. 86224809. Specifically, the mark set forth in application Ser. No. 86224809 is identical to and/or comprises a mark which so resembles the marks set forth in Ser. Nos. 86224960 and 86225653 as to be likely to cause confusion, or to cause mistake, or to deceive, under Trademark Act Section 2(d), 15 U.S.C. § 1052(d).


23. Registration of the mark set forth in application Ser. No. 86224809 should also be refused pursuant to Trademark Act Section 2(a), 15 U.S.C. § 1052(a), on the grounds that any use of the BFD mark by Applicant invokes Opposer's established identity and persona so as to falsely suggest a connection between Applicant and Opposer named herein, to the damage of Opposer.

WHEREFORE, Opposer requests that application Ser. No. 86224809 be refused registration.

Respectfully submitted,

Big Front Door, LLC

By:



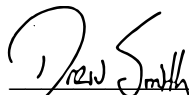
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Amended Notice of Opposition has been served on Applicant's Attorney of Record, Daniel S. Latter, via email at dan@marqueelaw.com (through prior agreement of counsel) on October 14, 2014.



Drew M. Smith